

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-0647V

UNPUBLISHED

MARIE FOSTER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 19, 2022

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

Leigh Finfer, Muller Brazil, LLP, Dresher, PA, for Petitioner.

Benjamin Patrick Warder, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 12, 2021, Marie Foster filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza vaccine she received on November 12, 2019. Petition at 1. Petitioner further alleges that her vaccine-related injury has lasted longer than six months. Petition at ¶7. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 18, 2022, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1.

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Specifically, Respondent states that “Petitioner’s records show that she had no history of left shoulder pain or dysfunction, that the onset of left shoulder pain occurred within forty-eight hours of vaccination, that the pain was limited to her left shoulder, and that there were no other conditions or abnormalities identified that would explain her post-vaccination symptoms.” *Id.* at 4. Respondent further agrees that Petitioner “received the flu vaccination in the United States, and that she has satisfied the statutory severity requirement by suffering the residual effects or complications of her injury for more than six months after vaccine administration.” *Id.*

In view of Respondent’s position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master